

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUSSELL PIKE,

Defendant.

2:09-CR-147 JCM (GWF)

ORDER

Presently before the court is defendant Russell Pikes's ex parte application for continuance of sentencing hearing. (Doc. #186, 188).

Defendant seeks to continue the sentencing hearing, currently set for August 27, 2012, to October 1, 2012. (Doc. # 186, 2:1-3). Defendant contends that the August 27, 2012, sentencing hearing date does not leave sufficient time to review the record "to evaluate and opine on the tax loss issue at sentencing." (Doc. # 188, 3:12-13) Additionally, defense counsel cites defendant's recent retention of tax expert Curtis G. Swarts (Doc. # 188, 3:10-12). The government opposes this application. (Doc. # 188, 3:27-28).

The court found defendant guilty after a six day bench trial almost five months ago. (Doc. # 115). The period of time between a finding of guilt and the sentencing hearing has provided

1 defendant ample opportunity to properly prepare for the sentencing hearing.¹ Defense counsel
2 contends that there are disputed facts that warrant this additional time (doc. # 186, 1:23-27).
3 However, these facts are *not* disputed; any alleged disputed fact was previously resolved at trial.
4 Thus, defense counsel's contention is without merit.

5 Further, the court questions defendant's retention of Mr. Swarts as his tax expert. Of all the
6 tax accountants in Las Vegas, defense counsel just happened to retain this court's personal tax
7 accountant. It would come as a surprise to this court if this retention was truly happenstance. While
8 whatever defense counsel was hoping to achieve by this retention is troubling, the court finds no
9 reason why it cannot impartially and properly consider the information submitted by Mr. Swarts on
10 defendant's behalf.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that defendant's ex parte
13 application for continuance of sentencing hearing (doc. #186, 188) be, and the same hereby is,
14 DENIED.

15 DATED August 21, 2012.

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18 **UNITED STATES DISTRICT JUDGE**

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27 ¹Further, the defendant has already benefitted from a continuance of the sentencing hearing on two separate
28 occasions. (Doc. # 154, 174). Defendant's focusing on other attacks to his adjudication of guilt (doc. # 157, 158) does
not abrogate counsel's responsibility to properly prepare for calendared items, especially in a criminal case.